

## 2009 Annual Meeting

### Bringing Accountability to Water Planning: Does it Take a Crisis?

The Water Dialogue's Board of Directors spent a good part of several board meetings working on the agenda for the annual statewide meeting on January 15, 2009. It was an unusual amount of time just to finalize an agenda, and our discussions reflect how much more complicated and serious water issues have become since we began holding these meetings 15 years ago. There is certainly greater concern that the state may not have been sufficiently rigorous about ensuring that our water supplies were not over allocated, a problem compounded by drought and other unanticipated variations in weather. Many people are concerned that the water problems New Mexico faces have some parallels to the financial woes faced by the nation. Please join us on January 15, 2009 for a dialogue about how to more responsibly plan for New Mexico's water future.

## Last of the Regional Water Plans Accepted: Taos's Long Road to Completion

by Simeon Herskovits

The last region in the state has finally produced a plan, bringing the initial round of regional water planning to completion. The Interstate Stream Commission (ISC) accepted the Taos Regional Water Plan (TRWP) this past July. After years of start-and-stop planning efforts followed by deadlock over the TRWP's Public Welfare Statement (PWS), this past spring stakeholders in finally resolved some persistent disagreements and completed a regional water plan with consensus support from constituencies and local governments throughout the region. The Taos region includes all of Taos County and a small piece of Rio Arriba County around Dixon and Embudo. Coming after all the other regions' plans, Taos's plan breaks new ground in fulfilling the promise of regional water planning not only to compile critical baseline information and address technical aspects of local water demand and supply, but also to define the Public Welfare in practical terms from a regional perspective and to provide water rights decision-makers with guidance on how the Public Welfare implications of water rights applications' should be evaluated.

While we Taoseños may have been stragglers in some regards, local interest and enthusiasm for regional water planning have been high since the process first was initiated over a decade ago. And residents of the Taos region were eager to go further than other regions in articulating and providing concrete plans

to achieve their regional water goals. Taos's ambitious approach to regional water planning was not secret, and water planners from around the state followed the TRWP's development and tribulations with interest, always urging us to complete our plan so they could use it as a model in revising their own plans.

The significance of the TRWP is apparent from the comments made by ISC commissioners and senior staff members in July. They recognized that the TRWP goes significantly further than any previous regional water plan in defining what elements comprise the Public Welfare criterion in New Mexico's water law, in explaining how Public Welfare should be evaluated in the water rights decision-making process, and in calling for the criterion's active application at the regional and state levels. Indeed, as explained below, the Taos PWS seeks to systematically identify the agricultural, economic, environmental, cultural, recreational, and other individual values that the public generally views as making up the Public Welfare, and further seeks to provide workable guidance for the protection of those values.

The history of Taos's ground-breaking regional water plan and its innovative approach to Public Welfare offer us a window into both the possibilities for and obstacles to regional articulations of

## DIALOGUE

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## Bringing Accountability to Water Planning

by Consuelo Bokum, President, Board of Directors

When the New Mexico Water Dialogue began in the early 1990s, New Mexico had learned that meeting its interstate stream compacts was serious business. After years of litigation, the U.S. Supreme Court ruled that New Mexico had defaulted in deliveries to Texas in violation of the Pecos River Compact. The deficit resulted in large part from new depletions that followed enactment of the compact which included an agreement that depletions would not increase. New Mexico agreed to pay \$14 million dollars to settle the case and the legislature has allocated about \$200 million more to ensure that we continue to meet our obligations. In the last two or three years, it finally looks like that particular burden on state funding will be reduced.

In other litigation with Texas, a federal court ruled that other states could apply to appropriate New Mexico's water. In response, the New Mexico legislature passed a number of bills, among them statutes enabling regional water planning. Initially, the emphasis was on protecting unappropriated water, but as regional water planners started to analyze their water supply and demand, the emphasis shifted to finding adequate available water supplies to meet growing demand. Planners also faced new and emerging threats beginning with drought in the mid-1990s.

Water planning is equivalent to annual business reports. A region reports on its liquid "financial" accounts: income in the form of available water supplies, debits in the form of demand, assets such as water stored behind dams and liabilities such as growing demand and drought. Prior to the existence of regional water plans, many areas in the state had no idea of how existing supply related to demand. Now that all 16 regional water plans are completed, we have a much better sense of where there are existing or emerging deficits that need to be addressed, and we have begun to analyze alternatives for reducing deficits, increasing assets, and dealing with new or changing conditions.

Regional water planning is a tool that can assist to protect the state and local areas from a meltdown similar to the financial crisis that dominates headlines today. But regional water planning is only useful if we are willing to face reality and not think we can get away with irresponsible management practices. I would argue that we need to:

- Invest in better accounting so that we accurately foresee water shortages and other challenges. This requires studies that determine the realistic longevity of ground water supplies and the reliability of surface water supplies as weather patterns change.
- A realistic assessment of future conditions including both changes to water supply and water demand.
- The determination to live within our means and to make some tough choices in order to ensure continuity of water supplies and to preserve a New Mexico we all want to live in.

One step is to fund continuing updates of regional water plan in order to monitor progress in implementation, create accountability, remain relevant and address new problems as they emerge. A second step is to be as serious about developing a State Water Plan as we are about managing our state's financial resources. And a third step is a willingness to change our behavior.

Certainly there are some parallels to today's current financial crisis. New Mexico's deficit on the Pecos River resulted in large part from thinking that the economic gains from new depletions justified the risks of over extending water use. The result was a "bailout." A question for people who are concerned about water in New Mexico is whether or not we are adequately examining our use of water to prevent anything from a slow erosion of things we value from inadequate water management practices to some form of a more serious crisis. Both Frank Titus's article and the theme of the Dialogue's 2009 annual meeting in January are efforts to address that question.



## Water Management — An Evolving Concept

by Frank Titus, Ph.D.

**W**e New Mexicans love our state. Our rivers and greenbelts have special value. Their riparian corridors of bosque and recurrent reaches of irrigated agriculture provide welcome respite in our arid environment. They also contribute ever so importantly to some of our unique and defining lifestyles.

The Middle Rio Grande is of course our “Great River,” bisecting the state, and absorbing much of our continuously growing population. Its immense aquifer, an integral part of the river’s plumbing, supports not only the state’s largest municipalities and extensive agriculture, but also the priceless nature zone of bosque, the state’s picturesque flyway for migratory birds, and many other easily recognized benefits.

How many of you tacitly assume this wonderful environment will always be here? Sorry! Some of our most knowledgeable water experts now suggest such assumptions may be wrong. Tom Turney, former state engineer (1995-2003), and independently Rolf Schmidt-Peterson, the senior Middle Rio Grande expert for the Interstate Stream Commission, have recently calculated that the sum of municipal and related groundwater pumping permits already granted by the Office of the State Engineer is equivalent to nearly all the water rights required to irrigate the 55,000 to 65,000 acres of today’s farmland in the Middle Rio Grande valley, including Indian farms. To understand the significance of this, consider the following.

Steve Reynolds, in the mid-1950s beginning his 35-year tenure as state engineer, initiated procedures designed to keep Albuquerque’s growth from being limited by water. Whenever Albuquerque needed additional water, it applied for a permit to drill a well and pump groundwater. Water pumped from a river-connected aquifer will eventually cause an equivalent reduction in river flow. So these permits were granted

with the proviso that when groundwater modeling suggested the well’s pumping effects had reached the river, the permittee had to acquire an existing high-priority water right (presumably by purchasing an irrigation water right, since these are the early rights). That surface-water right thereafter would no longer be used for real irrigation, but its equivalent water volume was “dedicated” to “offset” the calculated water loss from the river owing to pumping its well.

Over the years since 1956 when this groundwater basin was “declared” by the state engineer, Albuquerque, Rio Rancho and nearby municipalities have drilled more than 100 water wells into our prolific aquifer. Each has a permit that allows a specific volume of annual pumping. The cumulative total pumping allowed by these permits is the volume that Turney and Schmidt-Peterson now report approaches that required for irrigation of most agricultural lands in this reach of the Rio Grande.

Some ask whether Mr. Reynolds’ permits for municipalities might have violated New Mexico’s constitutional provision that, “Priority of appropriation shall give the better right.” Their concern is based on the pragmatic realization that no one would have the temerity to shut down municipal water supplies of the Albuquerque metro area even if it is demonstrated that their pumping is diminishing water needed to irrigate lands having the oldest, highest priority water rights. Interesting question.

Does this mean all Mid-Rio irrigation is doomed? Certainly not. That question would arise only if the sole option involved balancing municipal pumping by ceasing irrigation. Nearly everyone is aware that irrigation consumption isn’t the only depletion from the system. Agriculture consumes about 34 percent, riparian vegetation 33 percent, reservoir direct evaporation 19 percent (mostly Elephant Butte Reservoir, average of the high years of 1950-98), and urban uses

14 percent. Anyone, with a little imagination, can envision alternatives to drying up all the farms.

It does mean, however, that water management is going to have to change in the future. There are uncounted numbers of options. They are complicated and mostly understandable only by experts. Do we cut salt cedars, keep Elephant Butte Reservoir small to reduce evaporation, adjudicate in order to enforce priority of rights, make domestic well applicants buy water rights, cut Middle Rio Grande Conservancy District claims in half, control or not control water banks, try to renegotiate the Rio Grande Compact, cloud seed, condemn water in the San Agustin Basin or Estancia Valley, provide “area-of-origin protection” to Socorro County farmers, concrete-line the river, or do any number of other things? (By the way, wasn’t San Juan-Chama Diversion Project supposed to solve everything?)

I fully expect if we attempt to select THE PATH into the future by letting all kinds of non-experts — citizens, legislators, politicians, environmentalists, business people — argue it out, that path will be “won” by the power group with the ability to pay for the most impressive experts. Mark my words: The system is too complex and the rewards for winning are too valuable for public welfare alone to dominate a decision reached thusly.

Here is a recommendation that has floated to the top of my personal list during 15 years of publicly arguing that only vision and wisdom can keep New Mexico looking like New Mexico. Why don’t we insist that the public proactively identify and prioritize those water-related state characteristics that citizens most want protected as we move toward the future. (But don’t let them start arguing over how it’s to be done.)

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Then, insist that the legislature create, preferably in the state constitution, guidelines based on those priorities, against which all proposed water management decisions must be judged. The idea is to develop a citizen-dominated vision of New Mexico's future. Is this too creative?

As long as we are dreaming, let's dream big. This is a perfect plan on which the governor should take the lead. "Agua es vida," as we have often heard. The plan is perfect for these economic times owing to the grandeur of its promise, its almost insignificant cost, and an end product that might even yield a truly sustainable water future.



## Status of Efforts to Link Regional and State Water Planning Programs

by Angela Schackel Bordegaray, State Water Planner, ISC

The July 2008 acceptance of the Taos Regional Water Plan by the New Mexico Interstate Stream Commission (ISC) marked the completion of each of the 16 regional water plans. A few regions have begun to update their plans.

Also over this past year, the ISC has reviewed the 2003 New Mexico State Water Plan and identified priorities for its update. The ISC engaged the "Water Cabinet" (other state agencies with water-related responsibilities) and received input from the Governor's Blue Ribbon Task Force on Water and the Regional Water Planning Advisory Council (RWPAC), a steering committee of representatives of each regional water plan. While the two water planning programs – regional and state – are intertwined, they were developed under different laws and for different purposes. The process of bringing the two planning programs together is, therefore, a challenge, but also a requirement in the State Water Plan statute (§72-14-3.1).

The first of these challenges is the lack of dedicated and consistent funding for water planning activities. Currently, the ISC is utilizing a special appropriation of \$300,000 for updating the State Water Plan. Last year, the ISC received no money for state water planning. The ISC receives \$55,000 each fiscal year for regional water plan grants. This inconsistent and piecemeal approach to water planning deprives our state of the

ability to best utilize its resources to better assess, manage, and plan for its water resources.

Despite the lack of adequate and dedicated funding, water planning efforts continue. This fall, ISC planning staff has embarked on updating the State Water Plan by beginning to examine regional water plans side-by-side and in relation to the State Water Plan.

Updating the State Water Plan involves updating the water management policies and linking, where appropriate, the regional water plans pursuant to the state water plan statute. The ISC is utilizing the report, "A Preliminary Synthesis of New Mexico Regional Water Plans" completed in 2007. A follow-up integration study is underway. The result of these efforts will be to educate the public on statewide hydrologic matters, water management issues, and the water supply-demand balance.

The ISC's approach to this project is to organize and tabulate surface and groundwater water rights state-wide to help address the supply and demand gap. The State Water Planning process also includes an investigation of the water inventory in New Mexico (surface and ground). In addition, the State Water Plan will include an assessment and management strategy that includes whether the groundwater supply is recoverable based on estimated future use, the consideration of sustainability, prob-

lems and concerns related to water supply longevity, or references to places with known water supply shortages.

This project meets another of the State Water Plan law's requirements to include an inventory of the quantity and quality of the state's water resources, population projections, and other water resource demands under a range of conditions. Additionally, this project will include data that provides a basis for water budgets for the state and for all major river basins and aquifer systems in the state. In the longer term, by integrating regional water plans with the State Water Plan, the effort also provides a basis for prioritizing infrastructure investment.

All results of these studies will be shared with the regional planners (RWPAC) as part of the ongoing and critical public involvement program of the State Water Plan Update. To kick off the State Water Plan update, the ISC hosted a workshop with the planning committee of the ISC and the RWPAC in October. The workshop's purpose, in addition to clarifying the role of RWPAC in the ISC water planning program, was to collectively review the preliminary analysis of the 16 regional water plans and develop action steps toward bringing the regional water plans and the State Water Plan closer together. No doubt the overall effort is long term: this is one first step.

## —Report from the Regions—

## The Jemez y Sangre Region Begins Plan Update

by *Consuelo Bokum, Chair, Jemez y Sangre Regional Water Planning Council*

When the Jemez y Sangre Regional Water Plan was accepted by the Interstate Stream Commission in 2003, the plan projected a shortfall between supply and demand of 21,638 acre feet per year in 2040 and 32,753 acre feet per year in 2060.

In 2007, the Jemez y Sangre Regional Water Planning Council received \$30,000 from the Interstate Stream Commission that was used to update information on water supply and demand from the 2003 Jemez y Sangre Regional Water Plan. On August 12, 2008, the Jemez y Sangre Regional Water Planning Council issued its report on the update.

Among key findings, the report found that:

- The region has made progress in closing the projected gap between water

supply and projected demand largely due to the implementation of water conservation measures (reducing demand) and the proposed projects to divert native Rio Grande water rights and San-Juan Chama water from the Rio Grande (increasing supply).

- The revised projected gap assuming completion of the diversion projects and acquisition of the projected water rights has been reduced to zero in 2040 and 9,100 afy in 2060.

- The projections in the update are based on historically normal conditions. If drought or other negative conditions impact the region's water supply, the gaps will be greater than projected under normal conditions. In addition, changes in population projections will increase or decrease the projected gap between supply and demand.

Phase I of the update has enabled the region to measure changes, evaluate the effectiveness of implementing alternatives, and created accountability. We know that the data we relied on is based on average, historical conditions, and that we don't know how robust or inadequate our groundwater aquifers are. Future phases include gathering more data on ground water availability and the impacts of variable, changing weather conditions and climate change as well as examining options for ensuring an adequate and dependable water supply into the future.

The report can be accessed at [www.ose.state.nm.us/isc\\_regional\\_plans3.html](http://www.ose.state.nm.us/isc_regional_plans3.html).

## Valencia County Water and Wastewater Master Plan

by *Kelly Collins, CDM Project Manager*

Over the past year, an innovative planning process has been ongoing in Valencia County. The 2007 Legislative Session, through a bill sponsored by Senate Majority Leader Michael Sanchez, appropriated \$1.5 million for the Valencia County Integrated Regional Water and Wastewater Master Plan. This plan was intended as a demonstration that "regionalization" can be a successful approach to addressing problems experienced not only in Valencia County but throughout New Mexico and the arid West. CDM, an engineering firm, was contracted by the County through a competitive bid process for a little less than \$1 million to complete the master plan in 18 months.

There are two significant achievements of the master plan so far: The

first is a plan that maintains community values and has broad-based community support. The volunteer Citizen Advisory Group was formed of representatives of various interests in the County: municipal government, County government, community associations, the Farm Bureau, scientific expertise, Pueblo interests, development/business sector, and water system operators. These representatives have been instrumental in expanding the scope of the plan, as well as in developing the content of the plan.

The second achievement is a collaborative, regional approach that can benefit all communities by leveraging financial, land and human resources. In an era of constrained state and federal budgets, priority funding is being given to plans developed through stakeholder-based processes that present a unified ap-

proach. The Valencia County plan has produced strategies that anticipate and adapt to new information and regulations, and can propose project-level solutions that reflect shared community priorities.

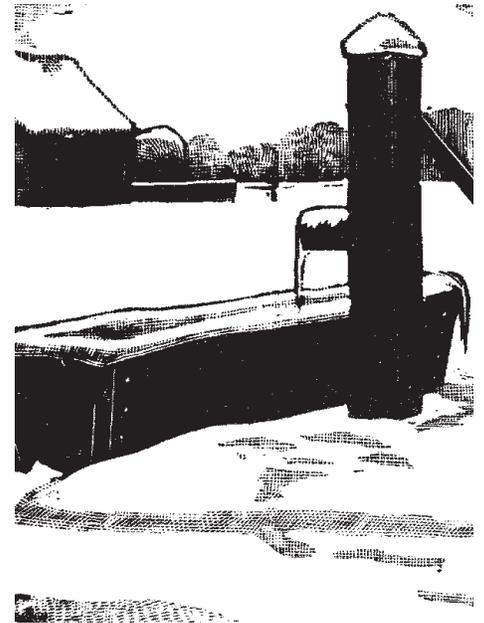
The Master Planning process incorporates several innovations, including master planning on a County-wide basis over a 40-year horizon; collaborative inter-community involvement for infrastructure solutions appropriate for different community-based areas; and a basic understanding that, in order to be implementable, the plan must include policy and organizational recommendations.

Generally, infrastructure master planning is limited to expanding single mu-

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nicipal systems or developments. Master planning for Valencia County, covering an area of 1,458 square miles, is a novel application. It not only involves cooperation and coordination between the several municipal jurisdictions but requires that the County take on responsibility for water and wastewater infrastructure in unincorporated areas, a nontraditional County role. The planning horizon of 40 years is also atypical for master planning. One reason is that projections of population and land use for 40 years are difficult to make. To address the uncertainty in the projections, high, medium, and low scenarios were developed.

The master planning process used a community-by-community approach to develop a comprehensive solution for the entire County. With active input from the broad-based Citizen Advisory Group and from community meetings, the recommended alternative respects the character of each community area in planning for growth. The master plan identifies needed water and wastewater infrastructure that expands existing systems where feasible, prioritizes capital improvements to meet urgent needs, and identifies mechanisms for project funding. Overall, these improvements will maintain aquifer sustainability, gradually decrease dependence on individual water and wastewater systems, and reuse water wherever possible.



## New Mexico's Projected Population Dynamics

by Angela Bordegaray, State Water Planner, OSE Planning and Communication Division.

The New Mexico Interstate Stream Commission (ISC) is pleased to announce the release of new population projections for New Mexico counties and water planning regions. The projections, which extend through the year 2060, were prepared by the Bureau of Business and Economic Research at the University of New Mexico.

According to ISC Director Estevan Lopez, "As part of its mission, the ISC supports the 16 New Mexico water planning regions in ensuring that there are adequate supplies of water to meet future demand. These forecasts will enable the regions to better plan for their future water needs." The report was commissioned by the Planning and Communication Division of



the OSE/ISC.

The projections take into account both historic trends and recent changes in the rates of migration (in-migration and out-migration) and natural increase (births minus deaths).

Population differences in the rates of these events drive differences in growth across the state's water planning regions.

It is projected that the population of New Mexico will increase from the July 1, 2007 estimate of 2,059,075 to 2,540,145 in 2020 and to 3,710,875 by 2060. A majority of this growth is expected to occur within the Albuquerque Metropolitan Area.

According to the report, between 2005 and 2010, the two fastest growing regions will both exceed two percent average annual population growth – from a high of 2.91 percent in the Middle Rio Grande region to the lower rate of 2.21 percent in the Lower Rio Grande region. In 2005, the New Mexi-

can population is characterized by concentrations around the Rio Grande. While the entire state will nearly double in population size, this picture of the relative distribution of populations will change only slightly. An overriding conclusion of the report is that if historical trends continue, the New Mexico population between 2005 and 2060 will become increasingly concentrated in the Middle Rio Grande (Albuquerque), Lower Rio Grande (Las Cruces), and the Jemez y Sangre (Santa Fe) water planning regions. Secondary densities will accumulate in the San Juan, Lower Pecos Valley, and Northwest New Mexico regions between 2005 and 2020.

The report is posted on the ISC website at [www.ose.state.nm.us/](http://www.ose.state.nm.us/) under Hot Topics. For additional information, please contact Angela Bordegaray at (505) 827-6167.

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what constitutes the Public Welfare and regional efforts to influence the application of this basic but historically neglected criterion in New Mexico water law.

So, why did we take so long to complete a plan, and what did we do differently than the rest of the State?

### ***A Brief History of Taos's Regional Water Planning Efforts***

In the early 1990s, the Public Welfare criterion had only recently been added to New Mexico's water law by the legislature in response to the El Paso litigation,

*So, why did we take so long to complete a plan, and what did we do differently than the rest of the State?*

and New Mexico's regional water planning process was still just a nascent effort. In the few public meetings that were held in the Taos region at that time, the public expressed enthusiasm for regional water planning. Underpinning this enthusiasm was a strong desire to use the Public Welfare criterion to protect the region's traditional agrarian communities, the potential for local long-term economic development, and the region's distinctive environmental and cultural values that depend on local water resources above all else.

So, at the outset motivation was high in Taos. But, as the 1990s drew to a close and the regional planning process got underway in earnest, Taos made some key missteps on a bureaucratic, or administrative, level. As a result no substantial planning activities were pursued for the first few years, while other regions soldiered forward and made sense of the water planning process on a regional basis.

Finally, in early 2005, after years of inactivity, changes were made in Taos: fresh faces at Taos County took the reins as fiscal agent; a new, energetic and proven contractor was hired to manage the process; and a steering committee was formed to lead the process and guide the plan to completion. From May of that year the planning process moved forward in an admirable fashion, with repeated public meetings throughout the region and volunteer committees synthesizing a great deal of public input and data into the various components of a plan.

By March of 2006, some core components of the plan were presented to the steering committee and circulated in draft form, while other components continued to be developed. Among the components circulated at that time was a Public Welfare Statement (PWS), which also addressed the conservation criterion under New Mexico water law. For nearly six months, feedback of an essentially technical or word-smithing nature was received from a number of quarters. Then, in August, 2006, the entities involved in negotiating the proposed settlement of an adjudication in what is commonly referred to as the Abeyta case came forward and strongly opposed the draft PWS.

### ***The Struggle Over Public Welfare***

In essence, the Abeyta parties' core objections were that local implementation of the Public Welfare criteria in the PWS could burden certain plans or transactions to which they had agreed amongst themselves as part of their proposed settlement and, more generally, could burden the free marketing and transfer of water rights. In contrast, many stakeholders from throughout the region, including virtually everyone from outside the central Taos Valley, remained adamant about keeping both the individual criteria and implementation plan of the PWS intact. The result was a standoff that, despite repeated meetings and incremental revision of the PWS, did not get resolved until the first quarter of 2008.

Without rehashing the history of this controversy, it is worth explaining briefly the content of the draft PWS, how it was derived, and how it has changed through this process.

The TRWP's PWS was drafted by a subcommittee of steering committee members on the basis of input from public meetings and ongoing outreach to parciantes, business people, conservationists, and other residents throughout the Taos region. In direct response to the demands of the public throughout the Taos region, this statement articulated a definition of public welfare that broke the general criterion into several individual criteria with standards for the protection of the values embodied in those criteria. The PWS also included a proposed plan for implementation of that definition at the regional, or local, level by establishing a process for systematically evaluating the public welfare implications of proposed water rights applications. That regional, or local, review process would be used to inform decisions about whether to protest such applications and thereby to inform decisions by the State Engineer concerning the Public Welfare implications of such applications.

*We consistently heard from people involved with regional water planning in other parts of the state ... that they shared a pervasive sense of dissatisfaction with the failure of previous regional water plans to define the Public Welfare in specific, practically applicable terms.*

There were several reasons why the Taos regional water planners laid out such a systematic definition of Public Welfare for the Taos region and made

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such a concrete proposal for its implementation at the regional level. First, as you may recall, from the very beginning of the regional water planning discourse one of the very top priorities expressed by the vast majority of local residents

*The discussions over the PWS were fraught with distrust and local political conflict.*

was giving the Public Welfare criterion real specific meaning and using it to protect a host of paramount water-dependent values. Second, without exception, the public opinion expressed in all phases of the planning process favored detailed description of the elements that constitute the Public Welfare as criteria in the PWS and the protection of those elements, or criteria, through some local form of review that could provide guidance to decision makers. Third, as the subcommittee discussed and distilled the public input into a statement, we spoke with people involved with regional water planning in other parts of the state and with water planning at the state level, and consistently heard from many of those people that they shared a pervasive sense of dissatisfaction with the failure of previous regional water plans to define the Public Welfare in specific, practically applicable terms and to provide some mechanism for assessing and protecting the Public Welfare at the regional level. Finally, we took into account the repeated complaints that have been voiced over the years from different strata of New Mexico society and government over the lack of any concrete content to the Public Welfare criterion and the consequent failure of the State Engineer's Office to meaningfully construe and apply the criterion, despite its apparent importance in safeguarding the state's water resources. All of these considerations were plainly proper, even

necessary, to incorporate in the TRWP's Public Welfare Statement.

Nonetheless, when the draft statement was circulated, it faced persistent opposition for over a year. To some extent that opposition was grounded on legitimate concerns over the use of strong, apparently mandatory, language in early drafts of the PWS. While by its nature a policy statement, like the PWS in a planning document like the TRWP, is merely aspirational, the use of terms that seem inflexible and commanding may have unnecessarily raised the specter of onerous standards being enforced on water users. By the same token, the detailed prescriptions originally offered in the PWS's implementation section may have unnecessarily suggested that the plan would, in effect, require every water rights applicant to undergo a burdensome local review process and that local Public Welfare review might conflict with the State Engineer's review process.

Clearing up those points of confusion and disagreement was rendered more difficult because the opposition to the PWS was spearheaded largely by lawyers and consultants from outside the Taos Region working in concert with a few local figures who appeared to have interests in minimizing any potential review of water transfers and maximizing the growth of a free market in water rights. As a result, the discussions over the PWS were fraught with distrust and local political conflict.

In September 2007 after considerable effort at resolving these differences, the TRWP was presented to the ISC without consensus support for the PWS. After public discussion, the ISC rejected the plan as it stood and urged the various parties to reach a compromise on the PWS so that the TRWP could be presented with full consensus support.

### *Reaching Consensus*

Additional local negotiations occurred over the next few months but appeared to reach an impasse by the end of the fall. At that point, with the encouragement of Taos County and others, the

ISC stepped in and scheduled a series of mediated sessions. The first session, which was held in Santa Fe, took an inclusive approach, open to full participation by a range of members of the steering committee and other members of the public. But the following sessions were structured so as to give governmental stakeholders and their lawyers and consultants precedence and to allow only them to vote on proposed revisions.

This changed structure led some long-term leaders in the regional water planning process to feel excluded from

*By mid-spring, the mediated negotiation sessions had yielded consensus on the compromise PWS.*

meaningful participation in these meetings, and some walked out of the meetings in protest. For a time, this falling out produced an atmosphere of controversy and alienation in some circles within the Taos region. Ultimately, however, the hurt feelings seem to have subsided, and while the ISC's management of the planning process toward the end may have stepped on some local toes, it also succeeded in producing a revised, compromise PWS that preserved all of the essential elements contained in the draft PWS produced by the public planning process and that garnered consensus support from key stakeholders in the region.

By mid-spring, the mediated negotiation sessions had yielded consensus on the compromise PWS, and with scant delay the ISC accepted the TRWP in July. The TRWP is available at [www.ose.state.nm.us/isc\\_regional\\_plans7.html](http://www.ose.state.nm.us/isc_regional_plans7.html).

### *The Product of Compromise*

When all was said and done in this rocky process, Taos's final PWS retains a detailed articulation of the same substantive elements, or individual criteria,

that the earlier draft PWS posited as comprising the Public Welfare of the Taos region. The final PWS also retains general standards for the level of protection to be accorded those individual criteria. Briefly, the individual elements, or criteria, identified as comprising the Public Welfare and requiring protection in Taos's PWS are: cultural protection; agrarian character; ecological health (vitality of watersheds and ecosystems); potential long-term community and economic development; recreational tourism; public information and educational outreach; conservation; water supply management; and minimizing water contamination. While the level of explication in individual criteria was scaled back, and some terminology was altered, in order to bring additional parties on board with the PWS, the Taos region's final definition of the Public Welfare retains the essence of the one circulated over two years earlier.

The final Taos PWS retains an explicit mandate for local implementation. However, whereas earlier drafts of the

PWS outlined fairly detailed provisions of a recommended process of implementation, in order to compromise and obtain general consensus support in the region, the final PWS drops all such detailed recommendations and simply recommends implementation at the local and regional level as the various governmental entities see fit. Without doubt, this less prescriptive approach provides more comfort to those who are skeptical of local implementation while leaving room for others to explore how best to implement the regional water plan's Public Welfare Statement.

As a postscript to the compromise and finalization of the regional water plan, a number of the local government officials and at least one of their out-of-region consultants lost their positions as a result of the March 2008 local elections. Along with other matters of considerable local controversy, these individuals' position on the PWS in the regional water planning process appears to have contributed to their ouster through the ballot box.

### *Implementing and Spreading the Word*

Now that the TRWP has been finalized, stakeholders have begun to work on implementing all strategies in the plan, not just the PWS. Although pushing ahead into new, more challenging Public Welfare territory generated more opposition and delayed the completion of the TRWP, the Taos PWS establishes a more systematic and rigorous model for defining the Public Welfare and evaluating the Public Welfare implications of water rights applications, which can be modified and used by other regions and by the OSE. As we begin the work of implementation, our hope is that the long road to completion for the Taos Regional Water Plan and its ground-breaking Public Welfare Statement ultimately has reaffirmed the importance of regional water planning in New Mexico and produced an initial roadmap for making the Public Welfare truly count in New Mexico water law and policy.

15<sup>th</sup> Annual Statewide Meeting  
**BRINGING ACCOUNTABILITY  
 TO WATER PLANNING:  
 DOES IT TAKE A CRISIS?**

Draft Agenda

- 8:00 On-site registration
- 8:30 Welcome and introductions
- 8:45 **Key Challenges**
- 9:45 Break
- 10:00 **Panel: The Consequences of Being Overdrawn**
- 12:00 Lunch
- 1:00 **Panel: Making Up the Deficit**
- 2:00 Break
- 2:15 **Panel: No One Else is Going to Bail Us Out**
- 3:30 Summation and Nominations for the Dialogue Board of Directors
- 4:00 Close

See back page for location and registration information. Continue to check the website at <http://nmwaterdialogue.org> for agenda updates

## New Mexico Water Dialogue 15<sup>th</sup> Annual Statewide Meeting

“Bringing Accountability to Water Planning: Does it Take a Crisis?”

Thursday, January 15, 2009

Indian Pueblo Cultural Center – Chaco I & II

2410 12<sup>th</sup> Street NW, Albuquerque

Registration includes lunch catered by the Indian Pueblo Cultural Center and morning and afternoon beverages and snacks. The early registration fee (prepaid before January 9, 2009) is \$30. Registration at the door is \$35. The fee for panel members who prepay is \$20. Payment may be made by check or purchase order. Fill out this form and send it to NMWD c/o Bokum, 1300 Canyon Rd., Santa Fe, New Mexico 87501 or paste it into an email and send to [bokat@cybermesa.com](mailto:bokat@cybermesa.com) (you will still have to mail in your payment since we are not equipped to accept plastic).

### Early Registration Form

Name(s) \_\_\_\_\_

Organization (optional) \_\_\_\_\_

Title (optional) \_\_\_\_\_

Address (street or box) \_\_\_\_\_

City, State, Zip \_\_\_\_\_

Phone \_\_\_\_\_ Email \_\_\_\_\_

Early registration for \_\_\_\_ person(s): Amount \$ \_\_\_\_\_

By registering for the annual statewide meeting, your name will be added to our mailing list to receive the *Dialogue*. If you wish to receive the *Dialogue* electronically, please check this box

and make sure you have provided your email address above

I'd like to support publication of the *Dialogue* with a year's subscription (generally 2-3 issues) to *Dialogue* (subscriptions are \$15 for individuals, \$30 for non-profits, acequias, etc.; \$50 for government agencies, businesses)

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